

FOLKENFLIK & McGERITY

ATTORNEYS AT LAW

1500 BROADWAY
NEW YORK, NEW YORK 10036TELEPHONE: 212-757-0400
FAX: 212-757-2010

WRITER'S E-MAIL: MAX@FMLAW.NET

USDS SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 9/13/10

September 10, 2010

VIA FACSIMILE 212-805-7900

The Honorable Kimba M. Wood
United States District Judge
Daniel Patrick Moynihan
U.S. Courthouse
500 Pearl Street
New York, New York 10007

MEMO ENDORSED

Re: Sutherland v. Ernst & Young LLP (10 cv 3332)(KMW)
Mansberger v. Ernst & Young LLP, et al. (Case No. 10-CV-3883 (JSR))

Dear Judge Wood:

Late last night I received via ECF Defendant's Reply Memorandum of Law on the arbitration motion. In their Reply, Defendant offers to stipulate to Plaintiff's entitlement in arbitration to certain arbitration-related expenses and costs "that she could recover in Court if she prevails on her claims." Defendant's asserts, and cites some newly cited case law for, the proposition that this stipulation eliminates Plaintiff's "prohibitive costs" argument.

Plaintiff respectfully request the opportunity to submit a Sur-Reply Memorandum to address this new factual and legal matter only. The reply brief is not to exceed 5 pages and to be submitted no later than September 14, 2010 by 5:00 pm.

Plaintiff also respectfully requests that the Court accept Plaintiff's Memorandum in Opposition to Arbitration which exceeds the 25 page limit set by this Court in Your Honor's local rules. Plaintiff believes that the extensive and unsettled law and the need for briefing legislative history justifies an exception from the 25 page limit.

Bth
requests
are
granted.
KMW

FOLKENFLIK & McGERITY

Honorable Kimba M. Wood
September 10, 2010
Page 2

I have met and conferred telephonically with the counsel for Defendant regarding this request. They oppose both requests.

Respectfully,



Max Folkenflik

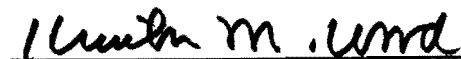
MF/vm

cc: Gerald D. Wells, III, Esq. (via e-mail)
Joel M. Cohn, Esq. (via e-mail)
Estela Díaz, Esq. (via e-mail)
Gregory W. Knopp, Esq. (via e-mail)
Daniel Nash, Esq. (via e-mail)
H. Tim Hoffman, Esq. (via e-mail)

*Plaintiff's Sur-Reply shall not exceed 5 pages
and shall be submitted by no later than
September 14, 2010 at 5:00 pm.*

*The Court accepts Plaintiff's Memorandum
in Opposition to Arbitration*

SO ORDERED: 9-13-10



KIMBA M. WOOD
U. S. D. J.